

Message Text

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ACTION EB-06

INFO OCT-01 ARA-06 EUR-08 IO-04 ISO-00 L-01 FRB-01 OMB-01

TAR-01 SP-02 SWF-01 AGR-05 AID-05 CIAE-00 COME-00

INR-05 LAB-01 NSAE-00 OIC-01 RSC-01 SIL-01 STR-01

TRSE-00 CIEP-01 CEA-01 AF-04 EA-06 NEA-06 SS-15 NSC-05

SSO-00 NSCE-00 USIE-00 INRE-00 DRC-01 /091 W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC IMMEDIATE 6423

INFO USMISSION EC BRUSSELS

USMISSION OECD PARIS

AMEMBASSY MEXICO CITY

USMISSION GENEVA

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DEPT PASS TREASURY FOR BRADFIELD

E.O. 11652: N/A

TAGS: UNCTAD, EGEN, ETRD

SUBJECT: UNCTAD: CHARTER OF ECONOMIC RIGHTS AND DUTIES --
TRADE PARAGRAPHS

1. IN THE INVESTMENT SUB-GROUP, MULIRO (KENYA, CHAIRMAN),
ACTING AS INTERMEDIARY, CONTINUED HIS "SHUTTLE DIPLOMACY",
PRESENTING TEXTS ON PARA 2, 2(A) AND 2(B) TO SEPARATE
MEETINGS OF THE GROUP OF 77 (PLUS CHINA AND RUMANIA), AND
GROUP B. THERE WAS NO AGREEMENT ON THE SUBSTANCE OF ANY
SINGLE TEXT, OR ON USING ANY PARTICULAR TEXT AS A BASIS
FOR FURTHER NEGOTIATIONS. CONSEQUENTLY A NUMBER OF TEXTS
ON EACH PARAGRAPH REMAIN IN PLAY.

2. GROUP B HAS PRODUCED THE FOLLOWING TEXTS, ALL WITH
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THE QUALIFICATION THAT PARAGRAPH 2 MUST BE CONSIDERED AS

A WHOLE, AND WITH DISCLAIMERS THAT THE TEXTS DO NOT
NECESSARILY REPRESENT THE VIEWS OF ALL GROUP B
DELEGATES, SOME OF WHOM ARE WITHOUT INSTRUCTIONS:

3. 2(A): "IN CONFORMITY WITH ITS DEVELOPMENT OBJECTIVES
AND PRIORITIES, TO REGULATE FOREIGN INVESTMENT WITHIN ITS
NATIONAL JURISDICTION, AND TO ENSURE THAT FOREIGN
INVESTORS COMPLY FULLY WITH ITS LAWS AND REGULATIONS."

THIS TEXT WAS OFFERED IN RESPONSE TO A G-77 PROPOSAL
THAT STATES ENSURE THAT INVESTORS "ACT IN CONFORMITY
WITH (THEIR) DEVELOPMENT OBJECTIVES AND PRIORITIES."
THIS PROPOSAL WAS REJECTED BY GROUP B.

4. 2(B): "IN THE EXERCISE OF ITS NATIONAL SOVEREIGNTY,
AND IN ACCORDANCE WITH THE PRINCIPLE OF SAFE-GUARDING
AND DEVELOPING ITS NATIONAL ECONOMY, TO ENTER FREELY INTO
INVESTMENT AGREEMENTS RELATING TO THE IMPORT OF FOREIGN
CAPITAL, WHICH AGREEMENTS SHALL BE OBSERVED IN GOOD FAITH."

THIS TEXT RESPONDED TO A GROUP OF 77 PROPOSAL GIVING
STATES THE "RIGHT" -- BUT NOT THE "DUTY" -- TO OBSERVE
INVESTMENT AGREEMENTS IN GOOD FAITH. EARLIER THE G-77
HAD PROPOSED THAT STATES SHOULD FULFILL THEIR INVESTMENT
AGREEMENTS IN GOOD FAITH "HAVING REGARD TO" TO PRINCIPLES
OF SAFEGUARDING NATIONAL SOVEREIGNTY AND DEVELOPING THE
NATIONAL ECONOMY OF THE HOST STATE. GROUP B REJECTED
BOTH THESE PROPOSALS.

5. ON SUB-PARAGRAPH 1 OF PARA. 2, THE G-77 FLOATED:
"EVERY STATE ENJOYS FULL PERMANENT SOVEREIGNTY.
ACCORDINGLY, EVERY STATE IS ENTITLED TO THE POSSESSION,
AND FULL USE AND DISPOSAL OF ITS WEALTH AND NATURAL RESOURCES,
AS WELL AS FULL CONTROL OVER ITS NATIONAL ECONOMY."

GROUP B EXPRESSED ITS RESERVATIONS ABOUT THIS PROPOSAL,
AND ASKED THAT IT BE SHELVED FOR THE TIME BEING. MEAN-
WHILE, SENATOR PERCY, IN A CONVERSATION WITH FOREIGN
MINISTER RABASE, PRESSED STRONGLY FOR RETURNING TO THE
FORMULA PROVISIONALLY AGREED AT GENEVA IN SEPTEMBER ON
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THIS POINT:

"EVERY STATE HAS PERMANENT SOVEREIGNTY OVER ITS NATURAL
WEALTH AND RESOURCES AND HAS THE INALIENABLE RIGHT FULLY
AND FREELY TO DISPOSE OF THEM."

IT IS UNDERSTOOD THAT G-77 HAS WITHDRAWN THE PROVISIONAL
AGREEMENT IT GAVE TO THIS GENEVA TEXT IN RESPONSE TO DEMANDS

OF IRAQ. RABASA RESPONDED WITH UNDERSTANDING TO SEN.
PERCY'S REPRESENTATION.

6. ON 10/16 THE GROUP OF 77 APPARENTLY PLAN TO PRESENT
LANGUAGE ON 2(D) -- "COMPENSATION" -- AND PERHAPS ON THE
DISPUTE SETTLEMENT PROVISIONS.
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